

Statement of Representative Edward J. Markey (D-MA)
Introduction of “Information Protection and Security Act”
Thursday, March 3, 2005

I am pleased to join with Senator Nelson this morning to discuss this important legislation.

In Bonfire of the Vanities, the novelist Tom Wolfe wrote about “The Bororo Indians, a primitive jungle tribe who live along the Vermelho River in the Amazon Jungles of Brazil.” According to Wolfe, the Bororos believed that “there is no such thing as a private self.” Instead, they “regard the mind as an open cavity, like a cave or a tunnel or an arcade, if you will, in which the entire village dwells and the jungle grows.” Wolfe compared this to the situation faced by his protagonist, Sherman McCoy, who was caught in the middle of a public scandal in the last quarter of the 20th century.

In the 21st Century, we now face the prospect of a world in which all of us – not just someone in the midst of scandal – will be forced to live without a private self: with the entire “village” able to obtain access to some of the most personal aspects of our lives.

In the emerging surveillance society of the 21st Century, the data mining and information brokerage firms seem to have also come to believe that there is no such thing as a private self. These companies are collecting and selling a vast array of personal information about the American public. For a fee, these companies will tell you someone’s Social Security Number, their address, phone number, driver’s license number, driving record, any criminal record information, court records, insurance claims, divorce records, and even credit and financial information.

Recent press reports indicate that ChoicePoint, an information broker and data mining firm, had allowed a group of Nigerian con artists to get access to names, Social Security numbers, and other personal information of nearly 140,000 Americans, including roughly 1,100 Massachusetts residents. Apparently this is not the first time that Choice Point has allowed criminal identity thieves to get access to such information. Two years ago, a similar problem reportedly occurred at the same company.

Unchecked, these companies take advantage of the most valuable possessions that Americans have: their personal identities. Companies like ChoicePoint are playing Russian roulette with the personal information and identities of millions of Americans. If we don't take steps to protect Americas consumers soon, it is not a question of whether or not more Americans will lose their privacy—it is question of when will the next ID theft scandal will hit. We must take immediate action to protect consumers from more information breaches.

The bill I am introducing today in the House, and that Senator Nelson of Florida is introducing in the Senate, would do three basic things:

1. Subject information brokers like ChoicePoint to federal regulation by the Federal Trade Commission, and specifically, require such brokers to comply with a set of new fair information practice rules that the FTC would be required to issue within 6 months of enactment.
2. The FTC rules the bill mandates will require information brokers to better secure the information in their possession, grant consumers the right to obtain access to and correct information held by the broker, require information brokers to protect information from unauthorized users, and prohibit users of an information broker to obtain the information for impermissible or unlawful purposes.

3. The bill's requirements will be enforceable through the FTC, which would be empowered to bring civil actions to punish and fine violators; the State Attorney's General, who could bring similar actions; and consumers,' who would be empower to bring a private right of action.

I look forward to working with Senator Nelson and with my colleagues in the House to see to it that this bill is enacted into law.